

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UA LOCAL 13 PENSION FUND AND
UA LOCAL 13 AND EMPLOYERS GROUP AND
UA LOCAL 13 ANNUITY FUND ET AL,

13-CV-6658

ORDER

Plaintiffs,

v.

DANIEL J. D'AMICO PLUMBING
AND HEATING CO., INC.

Defendant.

Plaintiffs bring this action pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. § § 1001 et seq., alleging that the defendant failed to make monetary contributions to union trust funds in violation of a binding multi-employer collective bargaining agreement ("CBA"). Specifically, plaintiff claims that the defendant owes \$98,730.06 to the plaintiff funds, which includes costs and fees, plus prejudgment interest.

Plaintiffs have moved for default judgment pursuant to Rule 55 of the Federal Rules of Civil Procedure against the defendant on grounds that the Funds are entitled to the amount sought, and defendant has defaulted.

According to the plaintiffs, the defendant, consented to participate in a multi-employer collective bargaining agreement with the plaintiffs. From approximately September to October, 2012, and September to December 2013, the defendant allegedly failed to remit timely benefit contributions to the plaintiff funds as

required under the CBA. On December 16, 2013, plaintiffs filed the instant suit seeking damages for unpaid contributions including the past amounts owed, interest, liquidated damages, and attorneys' fees. The defendant did not answer the plaintiffs' complaint, and on June 16, 2014, plaintiffs requested an entry of default against the defendant. That same day, the Clerk of the Court made an entry of default against the defendant.

On July 8, 2014, plaintiffs moved for default judgment against defendant pursuant to Rule 55 of the Federal Rules of Civil Procedure. Defendant was served with the instant motion for default judgment, but failed to respond to the motion.

Based on the defendant failure to appear, and after reviewing plaintiff's submissions in support of its motion, I find that plaintiff is entitled to a default judgment in the amount of \$98,730.06 plus prejudgment interest.

ALL OF THE ABOVE IS SO ORDERED.

S/ Michael A. Telesca

MICHAEL A. TELESCA
United States District Judge

Dated: Rochester, New York
August 6, 2014